
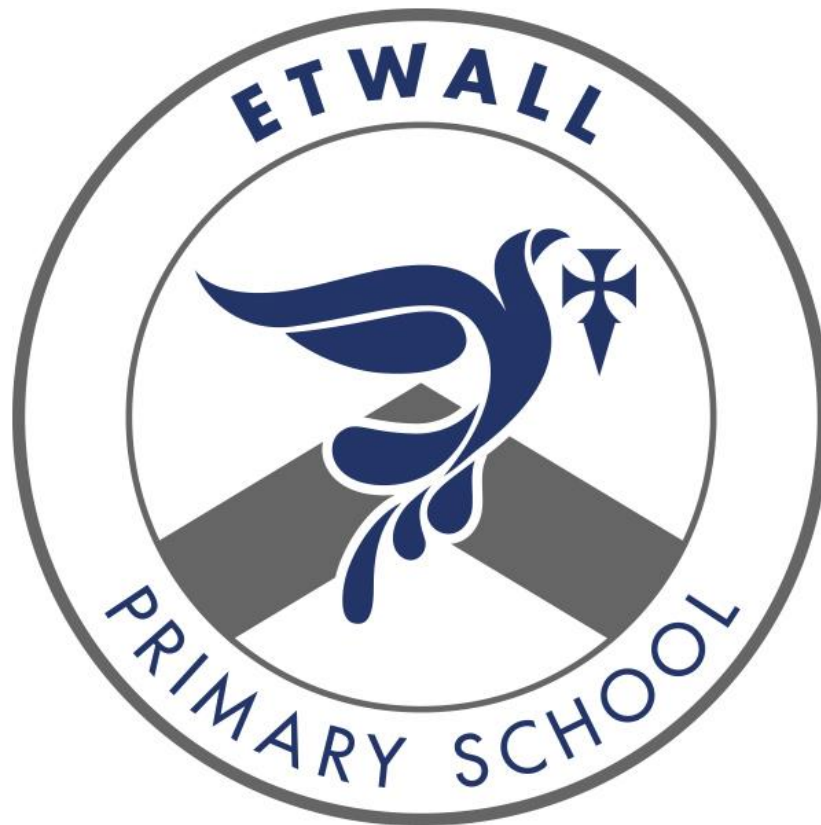


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<p>This policy has been reviewed on <b>23/07/2023</b> and has been impact assessed in the light of all other school policies and the Equality Act 2010.</p>			



# Managing Allegations of Abuse Against Staff Policy

# Allegations of Abuse Against Staff, Carers and Volunteers

## SCOPE of POLICY

These procedures are based on the framework for dealing with **allegations** of abuse made against a person who works with children, detailed in Chapter 6 and Appendix 5 of Working Together to Safeguard Children (2010 - now archived) and **Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges**. They should be followed by all organisations providing services for children and staff (including foster carers and prospective adopters), carers or volunteers who work with or care for children.

All references in this document to 'staff' or 'members of staff' should be interpreted as meaning all paid or unpaid staff – including supply staff, professionals and volunteers (including for example, foster carers, approved adopters and child minders). This chapter also applies to any person who manages or facilitates access to an establishment where children are present.

## AMENDMENT

In January 2023, this chapter was updated as the Police, Crime, Sentencing and Courts Act 2022 has extended the definition of **Position of Trust within the Sexual Offences Act 2003 section 22A** to include anyone who coaches, teaches, trains, supervises or instructs a child under 18, on a regular basis, in a sport or a religion.

## Contents

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1. **Introduction**
2. **Roles and Responsibilities**
3. **Suspension**
4. **Supporting those Involved**
5. **Confidentiality**
6. **Resignations and 'Settlement / Compromise Agreements'**
7. **Organised and Historical Abuse**
8. **Information Sharing**
9. **Record Keeping**
10. **Timescales**
11. **Oversight and Monitoring**
12. **Action on Conclusion of Case**
13. **Action following a Criminal Investigation or Prosecution**
14. **Disciplinary or Suitability Process**
15. **References**
16. **Allegations Against Foster Carers and Prospective Adoptive Parents**
17. **Learning Lessons**
18. **Action in Respect of Malicious, False or Unsubstantiated Allegations**

These procedures should be applied when there is an allegation or concerns that any person who works or volunteers with children, in connection with their employment, (including supply staff) or voluntary activity has:

- Behaved in a way that has harmed a child, or may have harmed a child;
- Possibly committed a criminal offence against or related to a child;
- Behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; or
- Behaved or may have behaved in a way that indicates they may not be suitable to work with children.

The last bullet point above includes behaviour that may have happened outside an organisation that might make an individual unsuitable to work with children, this is known as transferable risk.

An allegation can relate to an adult's behaviour outside work, and their relationships with others, if they:

- Have behaved in a way in their personal life that raises safeguarding concerns. These concerns do not have to directly relate to a child but could, for example, include an arrest for the possession of a weapon;
- Have, as a parent or carer, become subject to child protection procedures;
- Are closely associated with someone in their personal lives (e.g. partner, member of the family or other household member) who may present a risk of harm to child/ren for whom the adult is responsible in their employment/volunteering.

All agencies must have mechanisms to identify patterns or complaints or concerns raised about a member of staff which taken together raise suspicions of harm and therefore warrant referral.

If concerns arise about a person's behaviour in regard to their own children or family, the Police and/or Children's Social Care need to consider informing the Local Authority Designated Officer (LADO) (also known as Designated Officer for the Local Authority) and the person's employer in order to assess whether there are implications for children or transferable risk with whom the person has contact at work. Concerns about an adult at risk should be referred to Adult Social Care; see [Derby Safeguarding Adults Board](#) or [Derbyshire Safeguarding Adult Board](#).

These behaviours should be considered within the context of the four categories of abuse i.e. physical, sexual and emotional abuse and neglect, and include concerns relating to conduct at or outside work, and inappropriate relationships between members of staff and children or young people. For example:

- Having a sexual relationship with a child under 18 if in a position of trust (defined in Section 21 Sexual Offences Act 2003) in respect of that child (even if consensual). The Police, Crime, Sentencing and Courts Act 2022 has extended the definition within the [Sexual Offences Act 2003 section 22A](#) to include anyone who coaches, teaches, trains, supervises or instructs a child under 18, on a regular basis, in a sport or a religion;
- 'Grooming' i.e. meeting a child under the age of 16 with intent to commit a relevant offence (see Section 15 Sexual Offences Act 2003);
- Other 'grooming' behaviour giving rise to concerns of a broader child protection nature e.g. inappropriate text/email messages or images, gifts, socialising;
- Possession of indecent photographs/pseudo-photographs of children;
- Inappropriate behaviour towards children and/or conduct (i.e. social media, domestic abuse).

Once the Local Authority Designated Officer (LADO) has received the referral form, the duty LADO will review the referral information and contact the referrer to discuss whether the allegations threshold has been met and then provide further advice and support; this does not necessarily mean all discussions will lead to a LADO process.

There should be a clear distinction between an allegation, a concern about the quality of care or practice and a complaint. Organisations should also have clear whistle blowing procedures and these should be referenced in staff training, codes of conduct and culture.

### **The difference between an allegation and concern**

It might not be clear whether an incident constitutes an 'allegation'. It is important to remember that to be an allegation the alleged incident has to be sufficiently serious as to suggest that harm has or may have been caused harm to a child/ren or that the alleged behaviour indicates the individual may pose a risk of harm to children (or otherwise meet the criteria above).

If it is difficult to determine the level of risk associated with an incident the following should be considered:

- Was the incident a disproportionate or inappropriate response in the context of a challenging situation?
- Where the incident involved an inappropriate response to challenging behaviour, had the member of staff had training in managing this?
- Does the member of staff understand that their behaviour was inappropriate and express a wish to behave differently in the future? For example, are they willing to undergo training?
- Does the child or family want to report the incident to the police or would they prefer the matter to be dealt with by the employer?
- Have similar allegations been made against the employee – is there a pattern developing?

Incidents which fall short of the threshold could include an accusation that is made second or third hand and the facts are not clear, or the member of staff alleged to have done this was not there at the time; or there is confusion about the account.

Where it is decided that the incident does not meet the threshold of harm/risk of harm and is a concern only, then the employer should take steps to ensure any conduct or behaviour issues are addressed with the member of staff through normal employment practices.

Schools may also want to refer to the [DDSCP Briefing Note Low Level Concerns about Staff](#).

Agencies may also want to refer to [Developing and implementing a low-level concerns policy: A guide for organisations which work with children \(Farrer and Co\)](#).

## **2. Roles and Responsibilities**

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Each Derby and Derbyshire Safeguarding Children Partnership member organisation should identify a named senior officer, known as the designated officer, with overall responsibility for:

- Ensuring that the organisation deals with allegations in accordance with these procedures;
- Resolving any inter-agency issues;
- Liaising with the Derby and Derbyshire Safeguarding Children Partnership on the subject.

Employers and voluntary organisations should also ensure they have clear policies in place setting out the process, including timescales, for investigation and what support/advice is available to those individuals whom allegations have been made.

Local authorities should, in addition, have designated a particular officer, or team of officers to:

- Be involved in the management and oversight of individual cases;
- Create a 'LADO' record on Children's Social care electronic systems;
- Provide advice and guidance to employers and voluntary organisations;
- Liaise with the Police, Social Care and other agencies;
- Monitor the progress of cases to ensure that they are dealt with as quickly as possible consistent with a thorough and fair process.

Any such officer, or team of officers, should be sufficiently qualified and experienced to be able to fulfil this role effectively, for example qualified Social Workers. Any new appointments to such a role, other than current or former designated officers moving between local authorities, should be qualified Social Workers. Arrangements should be put in place to ensure that any allegations about those who work with children are passed to the designated officer, or team of officers, without delay.

See [Local Contacts](#).

Employers should designate:

- A named senior manager to whom allegations or concerns should be reported;
- A named deputy to whom reports should be made in the absence of the designated senior manager or where that person is the subject of the allegation or concern. Ideally this should not be the same named designated safeguarding lead for children.

The Detective Inspector from the Police City or County Referral Unit will:

- Have a strategic oversight of the local Police arrangements for managing allegations against staff and volunteers;
- Liaise with Derby and Derbyshire Safeguarding Children Partnership on the issue;
- Ensure compliance.

The Police City or County Referral Unit should designate a detective sergeant(s) to:

- Liaise with the LADO;
- Take part in strategy discussions;
- Create a referral and determine if a crime is to be recorded; where a child alleges assault and has an injury, an alleged crime will always be recorded;
- Review the progress of the cases in which there is a Police investigation;
- Ensure the LADO is updated with the outcome of a criminal investigation or related prosecution.

## **2.1 Initial Considerations**

The first priority must be to ensure the immediate safety of the child and other children affected, or who may be in contact with the individual (including their own children). In a residential setting, it will be appropriate to consider what supervising arrangements are required to safeguard the child. Some allegations will be so serious they require immediate intervention by Police and/or Social Care. In these situations the employer will need to involve the Police (for example if the person is deemed to be an immediate risk to children or there is evidence of a possible criminal offence) and/or Children's Social Care where there are immediate Child Protection concerns e.g. where a child has been injured. Where there is no

such evidence, the employer should, in the first instance, discuss the allegations with the LADO in order to help determine whether Police and/or Social Care involvement is necessary.

The employer should not ask the employee any questions that will interfere with any criminal investigation until it has been agreed by LADO and police.

The employer should immediately complete the LADO Referral Form (see [Documents Library, Report Forms and Templates](#)) and email securely to:

- Derbyshire: [professional.allegations@derbyshire.gov.uk](mailto:professional.allegations@derbyshire.gov.uk);

*When an employer has a concern about an employee's behaviour it is imperative that they ensure that the necessary safeguarding procedures are followed, and children concerns are escalated. The referrer should complete the written LADO referral form and email to the responsible local authority. The LADO on duty will then contact them within **1 working day** to discuss their referral.*

Allegations reported to the Police and/or Children's Social Care should also be immediately reported to the LADO. The purpose of an initial discussion is for the employer and LADO to consider the nature, content and context of the allegation and agree a course of action. The LADO will ask the employer to provide or obtain relevant information, such as previous history, whether the child or the family have made similar allegations and the individual's current contact with any children.

The procedures for dealing with allegations need to be applied with common sense and judgement. Many cases may well either not meet the criteria set out in [Section 1, Introduction](#) or may do so without warranting consideration of either a Police investigation or enquiries by Children's Social Care.

The LADO will consult with Children's Social Care and the Police as appropriate and inform the employer of any intention to do so.

Regulatory bodies such as [Ofsted](#) and the [Care Quality Commission](#), will need to be informed of any allegations made against members of staff who work in specific sectors. It is the responsibility of the employer to make the appropriate referrals. Those regulatory bodies will be informed of the outcomes of strategy meetings held under these procedures.

Where an individual works for a contracted service, and they are not the employer, the commissioner of that service will also need to be informed and involved in subsequent discussions and co-operate in any enquiries from the LADO and Police. Where an individual is self-employed, an agreement must immediately be reached as to which agency – Social Care, Police or regulatory body, or the LADO themselves – will take responsibility for communication with the individual.

There are up to three strands in the consideration of an allegation:

- A Police investigation of a possible criminal offence;
- Children's Social Care enquiries and/or assessment about whether a child is in need of protection or services;
- Consideration by an employer of the need for disciplinary action, including undertaking an immediate initial risk assessment (see [Section 3, Suspension](#)).

The initial sharing of information and evaluation may lead to a decision that no further action is to be taken in regard to the individual facing the allegation or concern; in which case this decision and a justification for it should be recorded by the employer and the LADO, and agreement reached on what information should be put in writing to the individual concerned and by whom. The employer should then consider with the LADO what action should follow both in respect of the individual and those who made the initial allegation. The LADO will record who will complete the actions, the timescale for completion and date the outcome of

all actions will be fed back to the LADO. It is the LADO's responsibility to follow up any outstanding actions and record clearly in the case record.

The employer should seek advice from LADO regarding the point at which information should be shared with the subject accused. The LADO will make an informed decision based on the circumstances of the case, in consultation with Police, and provide necessary leaflets for the employer to distribute. It is extremely important that the employer provides the subject with as much information as possible at that time. However, where a strategy discussion is needed, or Police or Children's Social Care need to be involved, the employer should not do that until those agencies have been consulted, and have agreed exactly what information can be disclosed to the accused.

If the allegation is not demonstrably false or malicious (see [Section 12, Action on Conclusion of a Case](#)), and there is cause to suspect a child is suffering or is likely to suffer [Significant Harm](#), a referral should be made to Children's Social Care. If the allegation is about physical contact, the strategy discussion or initial evaluation with the Police should take into account that some injuries may have been sustained in the course of reasonable restraint. A strategy discussion should be convened in accordance with [Child Protection Section 47 Enquiries Procedure, Strategy Discussions/ Meetings](#); this meeting does not involve the accused person.

Where there is not an identified child, but there is still potential risk to children in general, the LADO together with the employer and Police should consider who should conduct any investigation. A strategy meeting may also be necessary to evaluate the information and agree a course of action.

Where it is clear that an investigation by the Police or Children's Social Care is unnecessary, or the strategy discussion or initial evaluation decides that is the case, the LADO should discuss the next steps with the employer. In those circumstances, the options open to the employer depend on the nature and circumstances of the allegation and the evidence and information available. This will range from taking no further action to dismissal or a decision not to use the person's services in the future. It is important for the employer to write clearly in the personnel file the rationale for any decisions taken in respect of the employee.

In some cases, further enquiries will be needed to enable a decision about how to proceed. If so, the LADO should discuss with the employer how and by whom the investigation will be undertaken. In straightforward cases, the investigation should normally be undertaken by a senior member of the employing organisation. In some circumstances such as the lack of resource within the agency, or the nature or complexity of the allegation, the employer may wish to consider commissioning an independent investigator.

The employer should also seek a written account from the accused person outlining their perspective of events leading to the allegation. If the individual wishes, this account may be shared at the strategy meeting, though they must be made aware that the Police will be present and may use this account as evidence in their investigation.

### **3. Suspension**

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The possible risk of harm to children posed by an accused person should be evaluated and managed in respect of the child(ren) involved and any other children in the accused member of staff's home, work or community life.

In some cases the employer will need to consider suspending the accused until the case is resolved, or make other arrangements to remove the accused person from contact with the child/children, until the investigation is complete. If the employer is concerned about the welfare of the other children in the community or the accused person's family, these concerns should be reported to the LADO.

Suspension should not be an automatic response when an allegation is reported; all options to avoid suspension should be considered prior to taking that step. Suspension should be considered only in a case where:

- There is a cause to suspect a child/ren is at risk of harm; or
- The allegation is so serious that it might be grounds for dismissal.

The employer must consider carefully whether the circumstances warrant suspension or whether the result that would be achieved by suspension could be obtained by alternative arrangements. They should seek advice from their personnel/human resources (HR) team and the LADO; the decision to suspend is a matter for the employer and their personnel/HR team. Depending on the nature of the allegation the employer should consider the potential permanent professional reputational damage to employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

If immediate suspension is considered necessary, the rationale and justification for such a course of action should be agreed and recorded by both the employer and LADO. This should include what alternatives to suspension have been considered and why they were rejected. The accused person should be given written confirmation, by the employer usually within one working day, giving as much detail as appropriate for the reasons for the suspension. The employer should also inform the person of who their named contact is within the organisation, their contact details and the support available to them.

Children's Social Care or the Police cannot require the employer to suspend the member of staff or a volunteer, although they should give appropriate weight to their advice. The power to suspend is vested in the employer. Where a strategy discussion or initial evaluation concludes that there should be enquiries by Children's Social Care and/or an investigation by the Police, the LADO should canvass Police and Children's Social Care for views about whether the accused needs to be suspended from contact with children. The LADO should then inform the employer of these views.

If a suspended person is to return to work, the employer should consider what help and support might be appropriate, for example a phased return to work and/or provision of a mentor, and also how best to manage the member of staff's contact with the child concerned, if still in the work place.

#### **4. Supporting those Involved**

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Employers have a duty of care to their employees. They should act to manage and minimise the stress inherent in the allegations process. Support for the individual is key to fulfilling this duty. Individuals should be informed of concerns or allegations as soon as possible and given an explanation of the likely course of action, unless there is an objection by Children's Social Care or the Police.

The employer should appoint a named representative (not the investigating officer), to keep the person who is the subject of the allegation informed of the progress of the case and consider what other support is appropriate for the individual. Where an individual is self-employed, agencies and the LADO must agree who will supply this function.

The individual should be advised to contact their trade union representative if they have one, or other source of professional support. They should be provided with access to welfare counselling or medical advice where this is provided by the employer.

Where the individual is suspended a Contact Officer should be appointed as particular care needs to be taken to ensure they are kept informed of both progress of the case and current work issues. Social contact with colleagues should not be prevented unless there is evidence to suggest that such contact is likely to be prejudicial to the gathering and presentation of evidence.

If the employee changes job whilst the LADO investigation is ongoing, the employer must make the employee aware that it is their responsibility to inform the prospective new employer of the unresolved LADO complaint. Failure to do this may result in an offer of employment being withdrawn. Minutes from the Strategy Meeting should not be shared with the individual against whom the allegation is made (see [Section 2, Roles and Responsibilities](#)).



Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it. However, where a **Strategy Discussion** is required, or Police or Children's Social Care need to be involved, the employer should not do so until those agencies have been consulted and have agreed what information can be disclosed to the parents or carers. Parents or carers should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution i.e. whether substantiated or not, and should be told the disciplinary outcome in confidence. Where there is a criminal investigation, the Police have a responsibility to keep a victim informed, and any prosecution is in the public domain, however they cannot be told the outcome of any disciplinary or other internal process. Where the allegation is against a teacher, parents and carers should also be made aware of the prohibition on reporting or publishing allegations about teachers. If parents or carers wish to apply to the court to have reporting restrictions removed, they should be told to seek legal advice.

The agency together with Children's Social Care and/or Police where they are involved should consider the impact on the child concerned and provide support as appropriate. Liaison between agencies should take place to ensure that the child's needs are addressed.

## **5. Confidentiality**

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It is extremely important that when an allegation is made, the employer makes every effort to maintain confidentiality and guard against unwanted publicity while the allegation is being investigated or considered. When allegations are made against a teacher employers must comply with the Education Act 2011, which introduced reporting restrictions preventing the publication of any material that may lead to the identification of a teacher who has been accused by, or on behalf of, a pupil from the same school (where that identification would identify the teacher as the subject of the allegation). The reporting restrictions apply until the point that the accused person is charged with an offence, or until the Secretary of State publishes information about an investigation or decision in a disciplinary case arising from the allegation. The reporting restrictions also cease to apply if the individual to whom the restrictions apply effectively waives their right to anonymity by going public themselves or by giving their written consent for another to do so or if a judge lifts restrictions in response to a request to do so. Breaching the reporting restrictions is a criminal offence; publication includes any speech, writing, relevant programme or communication in whatever form, which is addressed to the public at large or any section of the public; this includes social networking sites.

The Police will not normally provide any information to the press or media that might identify an individual who is under investigation, unless and until the person is charged with a criminal offence. In exceptional cases where the police would like to depart from that rule, for example to trace a suspect, they must apply to a magistrates court to request that reporting restrictions be lifted.

The employer can take advice from the LADO, Police and Children's Social Care to agree the following:

- Who needs to know and, exactly what information can be shared;
- How to manage speculation, leaks and gossip;
- What, if any information can be reasonably given to the wider community to reduce speculation; and
- How to manage press interest if and when it should arise.

## **6. Resignations and 'Settlement / Compromise Agreements'**

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If the accused person resigns, or ceases their service, this should not prevent an allegation being followed up in accordance with this policy. The employer must also make a referral to the **Disclosure and Barring Service (DBS)** and any regulatory body when the criteria are met for dismissal due to the allegations; there is a legal duty to refer to the DBS and not doing so is a criminal offence.

Every effort should be made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process. The accused should be given the opportunity to answer the allegation and make representations about it; wherever possible this should be in the form of a written response. The process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be substantiated on the basis of all information available, should continue even if that cannot be done or the accused does not co-operate.

Settlement / compromise agreements by which a person agrees to resign if the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in future reference, should not be used in these cases. Such an agreement will not prevent a thorough police investigation where that is appropriate.

## **7. Organised and Historical Abuse**

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Investigators should be alert to signs of organised or widespread abuse and/or the involvement of other perpetrators or institutions. They should consider whether the matter should be dealt with in accordance with complex abuse procedures which, if applicable, will take priority. See also [Investigating Complex \(Organised or Multiple\) Abuse Procedure](#).

Historical allegations should be responded to in the same way as contemporary concerns. It will be important to ascertain if the person is currently working with children and if that is the case, to consider whether the current employer should be informed and should be referred to the Local Authority Designated Officer.

## **8. Information Sharing**

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In a strategy discussion or the initial evaluation of the case, the agencies involved should share all relevant information they have about the person who is subject of the allegation, and about the alleged victim.

Where the Police are involved, wherever possible the employer should ask the Police to obtain consent from the individuals involved to share their statements and evidence for use in the employer disciplinary process. This should be done as the investigation proceeds and will enable the Police to share relevant information without delay at the conclusion of their investigation and any court case.

Children's Social Care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation are in need of protection or services, so that any information obtained in the course of enquiries relevant to a disciplinary case can be passed to the employer without delay.

## **9. Record Keeping**

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Details of allegations that are found to have been malicious (see [Section 12, Action on Conclusion of a Case](#)) should be removed from personnel records; these are a very small minority of allegations made. For all other allegations it is important that a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the confidential personnel file of the accused, and a copy provided to the person concerned. The record should be retained for as long as necessary in line with guidance from the [Independent Inquiry into Child Sexual Abuse \(IICSA\)](#).

## **10. Timescales**

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It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. All allegations should be investigated as a priority to avoid any delay.

Where it is clear at the onset that the allegation is unsubstantiated or malicious, the case should be resolved within one week. The decision about the need for a strategy meeting should be taken within 5 days. Any disciplinary action should be progressed as quickly as possible via the employer's disciplinary procedures.

## **11. Oversight and Monitoring**

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The LADO has overall responsibility for the oversight of the procedures for dealing with allegations; for resolving inter-agency issues; and for liaison with Derby and Derbyshire Safeguarding Children Partnership on the subject. The LADO will provide advice and guidance to the employer, liaise with the Police, Children's Social Care and other agencies and monitor the progress of cases to ensure that they are dealt with as quickly as possible, consistent with a thorough and fair process. Reviews should be conducted at fortnightly or monthly intervals, depending on the complexity of the case.

Police forces should also identify officers who will be responsible for liaising with the LADO, taking part in strategy discussion or initial evaluation, subsequently reviewing the progress of cases in which there is a Police investigation, sharing information on completion of the investigation or any prosecution.

If the Strategy Discussion or Children's Social Care single assessment decides that a Police investigation is required, the Police should also set a target date for reviewing the progress of the investigation and consulting with the Crown Prosecution Service (CPS) about whether to charge the individual, continue to investigate or close the investigation. Wherever possible that review should take place no later than four weeks after the initial evaluation. Dates for subsequent reviews, ideally at fortnightly intervals, should be set at the meeting if the investigation continues.

## **12. Action on Conclusion of a Case**

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The following definitions should be used when determining the outcome of allegation investigations:

- **Substantiated:** there is sufficient evidence to prove the allegation;
- **Malicious:** there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive;
- **False:** there is sufficient evidence to disprove the allegation;
- **Unsubstantiated:** this is not the same as a false allegation. It means that there is insufficient evidence to prove or disprove the allegation. The term therefore, does not imply guilt or innocence;
- **Unfounded:** to reflect cases where there is no evidence or proper basis which supports the allegation being made.

The conclusion of any investigation should be clearly communicated in writing by the LADO to the employer, who is then responsible for communicating this to the individual along with any actions agreed within the investigation. The employer will be expected to feedback to the LADO when the actions agreed from the meeting have been completed. Where an individual is self-employed, it must be clearly agreed who will undertake this task and ensure the agreed action is put in place.

If an individual disputes the outcome of an investigation, their right of challenge will ordinarily be with the employer through disciplinary or grievance procedures. Employers, by agreeing actions with the LADO or in a strategy meeting, have accepted responsibility for these decisions and must be able to justify them to an employee or in any employment process. The same applies to any commissioner of a service or user of a volunteer. Where there is no-one in an equivalent position, or the individual has a complaint about the process rather than outcome, they should be informed about the Local Authority complaints procedure.

Individuals may apply for access to their record under subject access procedure; such applications will be considered by the LADO and relevant documents, appropriately redacted, will be shared.

## **13. Action Following a Criminal Investigation or Prosecution**

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The Police or CPS should inform the employer and LADO immediately when a criminal investigation and any subsequent trial is complete, or if it is decided to close the investigation without charge, or not to continue to prosecute the case after the person has been charged. In these circumstances the LADO and the employer should discuss whether any further action, including disciplinary action, is appropriate and if so, how to proceed. The information from Children's Social Care and the Police should inform the decision.

## **14. Disciplinary or Suitability Process**

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The LADO and employer should discuss whether disciplinary or other internal action is appropriate in all cases independently of any decision by the Police and CPS in relation to prosecution. However, the decision regarding any disciplinary action is the sole responsibility of the employer; they will be separately accountable for any such decision, which is subject to the usual criteria and right of appeal as usual under employment law. The employer should always take advice from their HR and/or Legal department.

The discussion should consider any potential misconduct or gross misconduct on the part of the member of staff, and take into account any relevant information from the Police and/or Children's Social Care, the result of any investigation or trial and the different standard of proof in disciplinary and criminal proceedings. Employers should also consider lesser action, such as increased supervision, mentoring, training, or agreed transfer to alternative duties.

In the case of supply, contract and volunteer staff, normal disciplinary procedures may not apply. In these circumstances, the LADO and employer should act jointly with the providing agency.

Where an individual is self-employed, employer options are not available. Consideration should be given to how the individual's activity can be restricted or monitored through working with professional or regulatory bodies, DBS, HSE, local commissioners or Licensing committees. The Police and local DBS teams should ensure that appropriate information is included on any future DBS checks. The individual must be informed of any such action or referral, and it must be clearly agreed who is taking responsibility to do this.

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services, the employer must refer the case to the [Disclosure and Barring Service](#) for consideration of inclusion on the barred lists; or to refer to any professional body.

There is a legal requirement for employers to make a referral to the Disclosure and Barring Service (DBS) where: they think that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or is likely to harm) a child or if a person otherwise poses a risk of harm to a child, and an employer has removed the individual from relevant work with children or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so.

Referral should be made as soon as possible after the resignation or removal of the member of staff involved and within one month of ceasing to use the person's services. Substantiated allegations are also likely to be Professional misconduct cases and should be referred to the relevant regulatory body.

The employer should provide written confirmation to the LADO of when the referral was reported to the Disclosure and Barring Service, Ofsted and any other regulatory body. In addition the LADO should also be informed of the outcomes of any disciplinary hearings and appeals.

Where it is decided on the conclusion of a case that the individual can be considered for return to work with children, the employer must consult with the LADO about any required safeguarding measures.

## **15. References**

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Employers should seek guidance from their personnel/human resources team in regard to including allegations in agency references.

Cases in which an allegation was proven to be false, unsubstantiated or malicious should not be included in employer references. A history of repeated concerns or allegations which have all been found to be false, unsubstantiated or malicious, should also not be included in any reference.

## **16. Allegations Against Foster Carers and Prospective Adoptive Parents**

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Allegations against foster carers and prospective adoptive parents will be dealt with under these procedures. Specific details of how to manage these allegations are outlined in the [Derby Children's Social Care Procedures Manual](#) and [Derbyshire County Council Children's Services Procedures](#).

Any person who receives information, or suspects a child has suffered or is suffering **Significant Harm**, must immediately inform the child's Social Worker or manager. A senior manager within the Fostering Service is identified to be the designated person who liaises with the LADO in all cases to which this procedure applies and manages the allegations process.

Although there may be insufficient evidence to support a Police prosecution, this does not mean that action cannot be taken to protect a child nor that the termination of a foster carer's approval cannot be considered.

It should also be noted that it may be necessary to consider during an investigation what action, if any, should be taken with regard to other children with whom foster carers against whom allegations are made have contact, including their own children.

### **17. Learning Lessons**

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At the conclusion of a case in which an allegation is substantiated, the LADO should review the circumstances of the case with the employer to determine whether there are any improvements to be made to the agency's procedures and practice to help prevent similar events in the future. This should include issues arising from the decision to suspend the member of staff, the duration of the suspension and whether or not the suspension was justified. Lessons should also be learnt from the use of suspension when the individual is subsequently reinstated.

### **18. Action in Respect of Malicious, False or Unsubstantiated Allegations**

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If an allegation is determined to be malicious, false or unsubstantiated, the employer and LADO should consider if the child concerned is in need of any services or if they may have been abused by someone else and refer as appropriate.

If an allegation is shown to be deliberately invented or malicious, the headteacher may consider whether any disciplinary action against the pupil is appropriate and/or whether the police should be asked to consider if action is appropriate against the accuser or any other person responsible for the allegation, especially one who is not a pupil.

**See flowchart on the next page.**

## Allegations/Concerns against Staff, Volunteers & Carers



### LADO Process

#### Education & Schools

